

REMARKS

Claims 1-12 are all the claims pending in the application and are rejected.

Claim Rejections - 35 USC § 112

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has amended the claims in a manner believed to overcome this rejection.

Claim Rejections - 35 USC § 103

Claims 1, 2, 4 and 6-12

Claims 1, 2, 4 and 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duff (U.S. Patent No. 5,868,175) in view of Hamasaki (EP 0987 439 A2) in view of Cametti (U.S. Patent No. 2,887,062) in view of Carey (U.S. Patent No. 6,020,667) and further in view of Sugino (U.S. Patent No. 5,590,732). Applicant respectfully traverses.

The Examiner acknowledges that the Duff reference is deficient in several regards and attempts to correct these deficiencies with a variety of other references. For example, the Examiner acknowledges that Duff is deficient with respect to claim 1 with respect to, among other things, a pump disposed on another side of the second housing. However, one of ordinary skill in the art would have had no reason to combine the disparate teachings as suggested by the Examiner and any combination would be deficient with respect to the claimed invention.

Duff provides a very specific arrangement of a vapor recovery unit which is different than the claimed invention. Specifically, with reference to Fig. 4, Duff provides a pump on the same side of the alleged second housing 72 as the control unit 40. Accordingly, Duff has an arrangement with the pump 38 and motor 39 both being on the same side of the control unit 40, and the pump 38 being located on the other side of the motor 39 with respect to the control unit 40. As acknowledged by the Examiner, this arrangement lacks several features of the claimed invention including a pump disposed on another side of the second housing.

The Examiner asserts that Hamasaki corrects the deficiency of Duff with respect to the location of the pump with respect to the housing. However, Hamasaki does not correct this deficiency of Duff. Additionally, one of ordinary skill in the art would have had no apparent reason to modify Duff with Hamasaki as suggested by the Examiner. Moreover, the Examiner's alleged reasons for making the combination are deficient.

First, Hamasaki simply does not correct the deficiency of Duff. In order for the Examiner's modification of Duff to result in a device which meets the claimed invention, the Duff pump would have to be moved to the other side of the second housing 70 so that the control device 40 would be disposed between the motor 39 and the pump 38.¹ Yet, Hamasaki does not disclose a control device disposed between a motor and a pump. Instead, the Hamasaki motor is located next to a pump with a bracket in between. This arrangement is already similar to Duff,

¹ Applicant notes that claim 1 does not require that the control device is disposed between the motor and the pump. However, at least in this case, in order for Duff to meet the claimed recitation of "a motor disposed on another side of the first housing", the control device 40 would have to be between the motor and the pump.

which also teaches a pump and motor located adjacently with some structure in between. Hamasaki does not teach anything regarding a pump and a motor being separated by a control unit and, therefore, cannot provide any reason to modify Duff to include such a feature.

The Examiner asserts that Hamasaki element 2 meets the claimed first and second housing and looks to these alleged housings to modify the positioning of Duff. However, Hamasaki element 2 does not surround a control device nor is it relevant to the alleged first and second housings 71, 72 of Duff. Instead, Hamasaki element 2 is a bracket for use between a motor and a pump. It is analogous to, if anything, the alleged motor frame 58 of Duff. (Compare Duff Fig. 4 and Hamasaki Fig. 7). Even if Duff were modified with Hamasaki according to element 2, it would be the Duff connection between the motor 39 and pump 38 which would be modified. A modification of the connection between the motor 39 and pump 38 in Duff would have no effect on the relative position of the pump to the housing. The alleged Hamasaki housing 2 is simply not relevant to a housing for surrounding a control element and is therefore not relevant to the alleged Duff housing 71, 72 nor the placement of the pump 38.

In view of the above, even if Duff were modified with Hamasaki, it would not meet the claimed invention because Hamasaki does not correct the deficiencies of Duff. Nevertheless, Applicants notes that the Examiner's reasons for modifying Duff continue to be deficient. For example, as alleged motivation for modifying Duff with Hamasaki, the Examiner cites column 3, lines 45-47. This portion of Hamasaki relates to the reservoir and is completely irrelevant to the Duff vapor recovery device. The Examiner additionally cites Hamasaki page 3, lines 26-41 as providing the motivation of making the device compact for car-mount use. However, again, this

is completely irrelevant to the Duff device which is a vapor recovery device for a fuel dispenser and would not be car-mounted. (*See* Duff Fig. 1). The Examiner's remaining motivations are simply irrelevant to the type of modification of Duff necessary for correcting the above-noted deficiency of Duff with respect to claim 1.

In view of the above, it is respectfully submitted that Hamasaki provides no teaching which would have caused one skilled in the art to take the pump of Duff and extracted it from its present position, only to place it on the other side of the controller. Indeed, Hamasaki teaches, if anything, an arrangement similar to the present Duff arrangement in which a pump and motor are formed next to each other and connected by a bracket. It does not provide any teaching which would have caused one to move the Duff pump to a location on the other side of a controller which is shown by neither Duff nor Hamasaki. Furthermore, none of the other cited references correct this deficiency of Duff. Accordingly, Applicant submits that claim 1 is allowable over the combination of the cited references. Claims 2, 4 and 6-12 and are allowable at least by virtue of their dependency.

Furthermore, Applicant submits that at least claim 11 is allowable for additional reasons. Claim 11 recites that the second clamp screw is disposed further from the motor than the first clamp screw. The Examiner relies upon the screw 31 of Hamasaki as meeting both the claimed first and second clamp screws. Even if, for the sake of argument alone, this single screw element could meet both of the claimed first and second screws, it cannot meet claim 11 in which the second clamp screw is disposed further from the motor than the first clamp screw. Accordingly, Applicant submits that at least claim 11 is allowable for this additional reason.

Claim 3

Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Duff in view of Hamasaki in view of Cametti in view of Carey and further in view of Sugino.

The Examiner acknowledges that the five combined references do not teach or suggest the recitations regarding the clamp screws in claim 3, and contends that this feature represents a mere duplication of parts. Applicant respectfully submits that the multiple applied references fail to teach or suggest the features of claim 1, as noted above. Thus, the application of the very same references naturally do not teach or suggest the features of claim 3, which further define the invention of claim 1. The rejection of claim 3 is respectfully requested to be withdrawn.

Claim 5

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duff 5,868,175 in view of Hamasaki EP 0987 439 A2 in view of Cametti 2,887,062 in view of Carey 6,020,667 in view of Sugino 5,590,732 and further in view of Knife 4,324,532.

The Examiner acknowledges that the combination of the originally applied five references fails to teach or suggest a sealant coated on an abutment face between a first housing and a second housing, and on an abutment face between the first housing and the frame. The Examiner therefore cites Knife. Applicant respectfully submits that the application of Knife fails to make up for the deficient teachings of the originally applied references as asserted against claim 1, such that claim 5 is deemed patentable over the applied art at least by virtue of its dependency upon claim 1.

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No.: 10/790,123

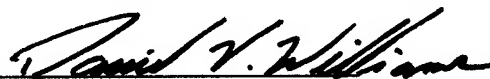
Attorney Docket No.: Q80167

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Daniel V. Williams
Registration No. 45,221

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

65565

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